

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**In the Matter of**

**Iowa Network Access Division  
d/b/a Aureon  
FCC Tariff No. 1**

**WC Docket No. 18-60**

**Transmittal No. 36**

**MOTION OF SPRINT COMMUNICATIONS  
COMPANY, L.P. JOINING AT&T SERVICES, INC.'S  
RENEWED MOTION TO AMEND PROTECTIVE ORDER**

On September 14, 2018, AT&T Services Inc.'s ("AT&T") filed a renewed motion to amend the protective order in this proceeding to permit its inside consultant, Mr. Rhinehart, to access confidential information Aureon has or will file to substantiate its new rates. Sprint again joins AT&T's request that the protective order be amended to permit inside consultants access to the confidential information in this proceeding.<sup>1</sup> And unlike AT&T, which through the formal complaint proceeding has previously had access to a broad set of confidential information and the ability to share that information internally with its cost consultant, Sprint has had access to limited information and has had *no* ability to share that information with inside consultants. Accordingly, Sprint joins AT&T's motion to amend the protective order to permit inside consultants to review confidential documents that Aureon has submitted, and will later submit, in

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<sup>1</sup> AT&T filed its original motion to amend on April 23, 2018 (*Motion of AT&T Services, Inc. to Amend Protective Order and for Expedited Ruling*, WC Docket No. 18-60, Transmittal No. 36 (filed Apr. 23, 2018), and Sprint filed a motion joining AT&T's request on April 30, 2018 (*Motion of Sprint Communications Company L.P. Joining AT&T Services, Inc.'s Motion to Amend Protective Order and for Expedited Ruling*, WC Docket No. 18-60, Transmittal No. 36 (filed Apr. 30, 2018). To date, the Commission has not ruled on either motion.

connection with the revised tariff, and renews its motion that the Commission permit its inside consultants access to Aureon's previously submitted confidential information.

Sprint's need for access to and the ability to share internally the confidential information on which Aureon has substantiated its tariff rate and based its defense to AT&T's formal complaint cannot seriously be disputed. To date, Sprint has been severely limited in its ability to challenge Aureon's claims and respond to Aureon's arguments. This limitation is due solely to the Commission's protective order, which has imposed strict limitations on the individuals who may access Aureon's confidential information. For instance, in challenging Aureon's mileage calculation for purposes of its composite rate, Sprint was able to offer as an illustrative example the average transport mileage billed to Sprint by Aureon, while recognizing that its traffic may not mirror other carrier's traffic. In dismissing Sprint's argument, the Commission wrote: "Indeed, the Aureon Rebuttal confirms that Sprint's mileage calculation is not representative of the network transport miles to other carriers." *In the Matter of Iowa Network Access Division Tariff F.C.C. No. 1*, WC Docket No. 18-60, Memorandum Opinion and Order ¶ 42 (July 31, 2018). Of course, without the ability to share this network data with Sprint's inside consultants, Sprint had no way to effectively respond to Aureon's contention regarding the appropriate mileage.

This same limitation will continue to impair Sprint's full participation going forward, and the ability to fully participate is critical. Sprint is currently litigating against Aureon many of the same issues that are before the Commission through the AT&T's formal complaint and the tariff proceeding. The Commission's decisions, therefore, will have a direct effect on Sprint's claims and defenses in that litigation. In fact, Aureon has already asserted to the Iowa District Court

that the Commission has resolved the applicable rates for much of the time frame in dispute.<sup>2</sup> It is fundamentally unfair for Aureon to argue that Sprint is subject to the Commission's rulings without affording Sprint a full and fair opportunity to participate in the proceedings for the Commission. And the simple fact that Sprint has the ability to respond and object to Aureon's filings and arguments is not sufficient when those responses and objections do not have the benefit of full and meaningful access to the underlying information on which the Commission is making its decisions.

Accordingly, for the reasons set forth above and in the prior motions to amend the protective order, Sprint requests amendment of the Protective Order in this proceeding to allow access to all confidential information by inside consultants providing technical or expert advice who are not involved in Competitive Decision-Making, as that term is defined in the Protective Order."

September 19, 2018

Respectfully submitted,

/s/ Amy E. Richardson

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<sup>2</sup> See Plaintiff's Notice of FCC Decisions and Request for Scheduling Conference, *Iowa Network Services v. Sprint Communications Co., L.P., et al.*, Case No. 4:10-CV-102 (S.D. Iowa) (without attachments) (Attach. A).

**CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2018, I caused a copy of the foregoing Motion of Sprint Communications Company, L.P. Joining AT&T Services, Inc.'s Renewed Motion to Amend Protective Order to be served via email on the following:

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Respectfully submitted,

/s/ Amy E. Richardson  
Amy E. Richardson

## **Attachment A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION**

IOWA NETWORK SERVICES (INS),  Plaintiff,  v.  SPRINT COMMUNICATIONS COMPANY, L.P., SPRINT NEXTEL CORPORATION, SPRINT UNITED MANAGEMENT COMPANY, AND SPRINT CORPORATION,  Defendants.	Case No. 4:10-CV-102          <b>PLAINTIFF’S NOTICE OF FCC DECISIONS AND REQUEST FOR SCHEDULING CONFERENCE</b>
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COMES NOW the Plaintiff, Iowa Network Services, Inc. (“INS” or “Plaintiff”), and for its Notice of FCC Decisions and Request for Scheduling Conference, hereby states as follows:

1. On or about May 3, 2018 this Court issued its Order Concerning Re-Setting Dispositive Motion Deadline (Docket 344). In the final paragraph of that Order, the Court stated it would “set a scheduling conference for the purpose of discussing a new dispositive motion deadline and related scheduling issues after the FCC proceedings involving INS and AT&T have been concluded at the agency level.” With the issuance of two recent decisions,<sup>1</sup> the FCC has effectively concluded its agency level findings as to the applicability of INS’ interstate access tariff to so-called “access stimulation traffic” and the applicable rate levels over time, with only a small issue regarding INS’ cost support evidence open.

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<sup>1</sup> These two orders from the Federal Communications Commission (“FCC”) resolve the liability and related access charge rate level issues that the District Court for the District of New Jersey sent to the FCC for resolution under the primary jurisdiction doctrine on October 14, 2015. The referral has been implemented by a formal complaint filed by AT&T against INS. *AT&T Corp. v. Iowa Network Services, Inc. d/b/a Aureon Network Services*, Proceeding Number 17-56, Bureau ID Number EB-17-MD-001. The damage phase of the complaint, which has not yet been decided, is not applicable to the *INS v. Sprint* case.

2. First, on August 1, 2018, the FCC released its “Order on Reconsideration” in the matter of *AT&T v. INS*. (FCC 18-116) Therein, the FCC generally affirmed its November 2017 Liability Order (FCC 17-148)<sup>2</sup> and rejected INS’ argument that the Commission failed to provide fair notice that the FCC would regulate INS as both a dominant and non-dominant carrier at the same time and, thus, the FCC would apply its rate cap and rate parity rules to INS. However, the FCC also clarified in its Order on Reconsideration that INS’ 2012 tariff filing had deemed lawful status, and therefore, the \$0.00623 rate in the 2012 tariff was the lawful rate until replaced in March 2018. The Order on Reconsideration (public version) is attached hereto as Exhibit 1.

3. Second, on July 31, 2018, the FCC issued its related Memorandum Opinion and Order, FCC 18-105, concerning its investigation of INS’ Tariff F.C.C. No. 1 (“Tariff Investigation Order”). In this lengthy Order, the FCC decided that INS’ rate going forward from March 1, 2008 should be benchmarked to the CenturyLink rate using 103.519 miles of transport, resulting in a composite CEA rate of \$0.005634. The Tariff Investigation Order (public version) is attached hereto as Exhibit 2.

4. Accordingly, reading together the FCC’s November 2017 Liability Order, the recent Order on Reconsideration, and recent Tariff Investigation Order, the FCC has resolved all liability issues referred to it by the New Jersey federal court and effectively decided that at all material times hereto INS’ tariff rate has applied to all traffic sent to it by Sprint (and all other interexchange carriers), including conference calling traffic and any other so-called “access stimulation traffic.” Moreover, the rates applicable to all such traffic can be summarized as follows:

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<sup>2</sup> *AT&T Corp. v. Iowa Network Services, Inc. d/b/a Aureon Network Services*, Memorandum Opinion and Order, 32 FCC Rcd. 9677 (2017) (“Liability Order”).

<b>Iowa Network Services Interstate CEA Rates</b>		
Effective Date	Rate	Source
July 1, 2004	\$ 0.010310	Filed on 7 days' notice - deemed lawful
July 3, 2006	\$ 0.008550	Filed on 7 days' notice - deemed lawful
July 1, 2008	\$ 0.008190	Filed on 7 days' notice - deemed lawful
July 3, 2012	\$ 0.006230	Filed on 7 days' notice - deemed lawful
March 1, 2018	\$ 0.005634	FCC 18-105, ¶ 43

5. Pursuant to the Court's directive in its May 3, 2018 Order Concerning Re-Setting Dispositive Motion Deadline, this filing serves as notice to the Court of the recent FCC decisions, and a request for the Court to set a scheduling conference for the purposes of discussing a new dispositive motion deadline in the above-captioned matter.

WHEREFORE, Plaintiff, Iowa Network Services, Inc., respectfully requests the Court take notice of the recent FCC decisions set forth above, and set a scheduling conference for the purposes of discussing a new dispositive motion deadline herein.

Respectfully submitted,

/s/ Timothy N. Lillwitz

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon one of the attorneys of record for all parties to the above-entitled cause by serving the same on such attorney at his/her respective address/fax number as disclosed by the pleadings of record herein, on the 9<sup>th</sup> day of August, 2018 by:

<input type="checkbox"/> U.S. Mail	<input checked="" type="checkbox"/> CM/ECF
<input type="checkbox"/> Hand Delivered	<input type="checkbox"/> EMAIL
<input type="checkbox"/> Federal Express	<input type="checkbox"/> EDMS

*/s/ Lucy Anderson*

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